



GIFTS, TRAVEL, EMPLOYMENT & OTHER ETHICAL ISSUES

Office of the Staff Judge Advocate, Luke AFB, AZ, (623) 856-6901

This pamphlet contains some of the more common ethics issues encountered by military members on a day-to-day basis.

General Principles of Ethical Conduct

The Joint Ethics Regulation (JER) governs all ethical conduct in the military. Some of the JER's salient general provisions are the following:

- Employees shall not hold financial interests that conflict with the conscientious performance of duty and shall perform their duties impartially.
- Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- Employees shall not make unauthorized commitments or promises of any kind purporting to bind the Government.
- Employees shall not use public office for private gain.
- Employees shall act impartially and not give preferential treatment to any private organization or individual.
- Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- A violation of the regulatory standards may be cause for corrective action or for disciplinary action against an employee. There are criminal penalties for violations of criminal statutes referred to in the regulations.

Solicitation and Endorsements

Employees may not make personal commercial solicitations or solicit sales to DoD personnel at the workplace. Employees shall not use their grades, titles, or positions in connection with any commercial enterprise or for endorsing a commercial product, provided that one-time sales (e.g. sale of the home) are permissible as long as such sale is conducted within DoD guidelines.

Fundraising

When off base, employees may engage in charitable fundraising activities in a personal capacity if they do not use their official title, position or authority to further that effort or personally solicit funds or other support from subordinates or from anyone known to them to be a prohibited source.

On base, however, employees cannot conduct any fundraising activities as individuals, in the workplace. In addition, all private organizations intending to conduct fund-raisers should submit a request for a legal review before the actual fundraising event is held.

Under Arizona law, ONLY tax exempt organizations are permitted to conduct lotteries, raffles, and other games of chance.

Gifts From Outside Sources

The JER generally prohibits employees from soliciting or accepting a gift or gifts given because of their official positions or gifts given from a prohibited source. A prohibited source is defined as any person, including an organization, more than half of whose members are persons:

- Seeking official action by the employee's agency;
- Doing or seeking to do business with the employee's agency;
- Regulated by the employee's agency; or
- Substantially affected by the performance of the employee's duties.

The term "gift" includes almost anything of monetary value. However, it does not include:

- Coffee, donuts and similar modest items of food and refreshments when offered other than as part of a meal;
- Greeting cards and most plaques, certificates, and trophies;
- Prizes in contests open to the public;
- Commercial discounts available to the general public or to all Government or military personnel;
- Commercial loans, and pensions and similar benefits on terms generally available to the public;
- Anything paid for by the Government, secured by the Government under Government contract or accepted by the Government in accordance with a statute;

- Anything for which the employee pays market value.

Exceptions include:

- Unsolicited gifts with a market value of \$20 or less per occasion, aggregating no more than \$50 in a calendar year from any one source (this exception does not permit gifts of cash or investment interests);
- Gifts when clearly motivated by a family relationship or personal friendship;
- Commercial discounts and similar benefits offered to groups in which membership is not related to Government employment or, if membership is related to Government employment, where the same offer is broadly available to the public through similar groups, and certain benefits offered by professional associations or by persons who are not prohibited sources;
- Certain awards and honorary degrees;
- Gifts resulting from the outside business activities of employees and their spouses;
- Free attendance (not travel or lodging) provided by the sponsor of a widely-attended gathering, speaking engagement, or other event where the agency has determined its interest in the event;
- Food, refreshments, and entertainment at certain social events attended by persons who are not prohibited sources, where no one is charged a fee to attend the event;
- Unsolicited gifts of free attendance for DoD employees (and spouses) at events sponsored by State or local governments or non-profit, tax exempt civic organizations, where the agency has determined its community relations interests in the event (JER 2-202a);
- Certain educational scholarships or grants for DoD employees and dependents;
- Free attendance provided by the sponsor of an event for the day on which an employee is speaking or presenting information at the event;
- Gifts accepted by the employee under a specific statutory authority.

Disposition of Gifts

When employees can't accept a gift, employees should pay the donor its market value. If the gift is a tangible item, employees may instead return the gift. Subject to approval, however, perishable items may be donated to a charity, destroyed, or shared within the office.

Gifts From Inside Sources

Generally, Employees shall not:

- Give or solicit for a gift to an official superior; or
- Accept a gift from a lower-paid employee, unless the donor and recipient are personal friends who are not in a superior-subordinate relationship.

Exceptions:

- On an occasional basis, including birthdays and other occasions when gifts are traditionally exchanged, gifts may be given if they are:
 - Items other than cash aggregating \$10 or less per occasion;
 - Food and refreshments shared in the office;
 - Personal hospitality at a residence;
 - Appropriate hostess gifts; or
 - Leave sharing under OPM regulations.
- On infrequent occasions of personal significance, such as a PCS, marriage, and retirement, gift giving is acceptable so long as the gift does not exceed \$300 in value per donating group. A donating group is comprised of all contributors to that group gift. A GIFT EXCEEDING THE \$300 RULE MAY BE GIVEN IF:
 - It is given on an occasion that terminates the subordinate-superior relationship, and
 - It is appropriate for the occasion, and
 - It is linked to the departing employee's position or tour of duty.
- An employee cannot solicit more than \$10 from another employee for a group gift to the contributing employee's superior (JER 2-203).
- Solicitations for gifts to a superior must be completely voluntary. The solicited individual may decline to contribute or contribute more than \$10;
- To avoid improper pressure, a list of contributors should not be kept, and preferably, the collection should be handled by someone junior in the organization.
- Voluntary contributions of nominal amounts may be made or solicited for gifts of food and refreshments to be shared in the office or for group gifts on occasions such as marriage or retirement described above.

Travel Benefits

Official Travel

Employees must always fly coach on official travel unless no other reasonably available accommodations exist, the traveler is disabled, or there are exceptional security circumstances in doing so.

Premium class (i.e. business class) may be used if no space is available in coach and travel is urgent and cannot be postponed, along with various other exceptions.

Frequent Flyer Miles

Frequent flyer miles earned while on official government travel are now considered the individual property of the military member and he/she is not required to return these benefits to the government.

Frequent flyer benefits may be used for upgraded flights on airlines. However, if members upgrade to first class while on official government travel, they are not permitted to wear their uniform.

On the spot upgrades may be accepted if they are not given because of the traveler's rank or position OR if they are generally available to the public, all Federal employees, or all military members.

If you are *involuntarily* bumped from a flight while on official travel, the benefits you receive belong to the Government.

If you *volunteer* to give up your seat in exchange for free tickets and/or other travel benefits, the benefits you receive belong to YOU. However, you should not do this if it would interfere with mission accomplishment. Also, you would have to take leave for any day(s) of work missed.

Use of Government Resources

Can only be approved by the installation commander. Restricted to official uses only, with the following exceptions:

- An unofficial use enhances morale and welfare (i.e. a deployed employee);
- If there is no adverse effect on duty performance;
- the duration and frequency are reasonable;
- a legitimate public interest is served;
- the use does not reflect adversely on DoD;

- the use does not overburden Government communication systems; AND
- the use creates no significant additional cost to DoD.

Conflicting Financial Interests

Under the criminal conflict of interest statute, 18 U.S.C. 208, employees are prohibited from participating in an official capacity in any particular matter in which, to their knowledge, they or certain other persons have a financial interest, if the particular matter will have a direct and predictable effect on their own or that person's financial interests. If this situation arises, employees should disqualify themselves by not participating in the matter.

Seeking other Employment

Employees are prohibited from participating in an official capacity in any particular matter that, to their knowledge, has a direct and predictable effect on the financial interests of a person with whom they are seeking employment. Employment is defined as any form of non-Federal employment or business relationship involving the provision of personal services.

The term "seeking employment" includes negotiations with another regarding possible employment. It can also include sending an unsolicited resume or contacts by or through an agent or intermediary. However, it does not include simply:

- Rejecting an unsolicited employment overture;
- Requesting a job application; or
- Sending an unsolicited resume or other employment proposal to a person affected by performance of the employee's duties only as a member of an industry or other discrete class.

Having once begun, an employee generally continues to be seeking employment until he/she or the prospective employer rejects the possibility of employment and all discussions end. However, an employee is no longer seeking employment with the recipient of his/her unsolicited resume or other employment proposal after two months have passed with no indication of interest in employment discussions from the prospective employer.

If the employee's conduct in seeking employment amounts to negotiations, the employee can participate in the matter affecting his/her prospective employer only if granted an individual waiver.

Outside Employment

Under JER 3-306 and C.F.R. 2635 (Section H), Air Force personnel may engage in outside

employment. However, they may not engage in outside employment that:

- interferes with or is not compatible with performing their government duties;
 - discredits the Air Force;
 - creates a conflict of interest; or
 - detracts from readiness or poses a security risk.
- Employees must obtain approval before engaging in outside employment. Usually, approval authorities are squadron commanders. Use Air Force Form 3902 to submit your application for approval. AETC form 239 is no longer valid for such use.

Outside Activities

Teaching, Speaking, and Writing

Employees shall not receive compensation for teaching, speaking, or writing that is related to their official duties.

Political Activities

Generally, active duty members of the armed forces may not:

- Engage in political activities (this includes wearing buttons) while on duty, or while in uniform;
- Campaign for, or hold elective civil office;
- Participate in partisan politics (i.e. campaigns, conventions, etc.). Employees may, however, attend political meetings when not in uniform, when off-duty, and when off the installation;
- Use their official authority or influence to interfere with an election;
- Use contemptuous words against the President and various other federally elected officials;
or
- Engage in fundraising activities for partisan political causes.

This pamphlet is designed to provide general information on common ethics issues. If you have additional questions concerning your individual situation, contact the legal office at (623) 856-6901. *(Revised October 2015)*